

**§ 886.114**

be tested. If lead-based paint is found in any common areas, all common areas in the project are required to be tested. If lead-based paint is found in any exterior applicable surface, all exterior applicable surfaces in the projects are required to be tested. Testing shall be performed using an X-ray fluorescence analyzer (XRF) or other method approved by HUD. Test readings of 1 mg/cm<sup>2</sup> or higher using an XRF shall be considered positive for presence of lead-based paint. Testing of chewable surfaces shall be performed by a State or local health or housing agency, an inspector certified or regulated by the State or local health or housing agency, or an organization recognized by HUD. The testing entity shall certify to the results of the test. The Owner shall be responsible for obtaining these testing services. Where lead-based paint on chewable surfaces is identified, the entire interior or exterior chewable surface shall be treated. Covering or removal of the paint surface in accordance with 24 CFR 35.24 (b)(2)(ii) shall be required as a condition of satisfaction of the requirements of § 886.107(c).

(ii) *EBL Child.* In the case of a residential structure constructed prior to 1978, if the owner is presented with test results that indicate a child seven years of age or younger living in a unit has an elevated blood lead level or EBL, the owner must test the unit occupied by the child and if such test is positive for lead-based paint, abate the unit surfaces in accordance with the methods set out at 24 CFR 35.24(b)(2)(ii) or choose not to test and abate all the unit surfaces.

(iii) *Abatement without testing.* In lieu of the procedures set forth in paragraphs (i)(3) and (4) of this section, in the case of a residential structure constructed prior to 1978, the owner may forego testing and abatement, and abate all applicable surfaces in accordance with the methods set out at 24 CFR 35.24(b)(2)(iii).

(5) *Tenant protection.* The Owner shall take appropriate action to protect tenants from hazards associated with abatement procedures.

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**§ 886.114 Equal opportunity requirements.**

Participation in the program authorized in this subpart requires compliance with (a) Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Orders 11063 and 11246, and section 3 of the Housing and Urban Development Act of 1968; and (b) all rules, regulations, and requirements issued pursuant thereto.

**24 CFR Ch. VIII (4–1–00 Edition)**

**§ 886.115 [Reserved]**

**§ 886.116 Security and utility deposits.**

(a) An Owner may require Families to pay a security deposit in an amount up to, but not more than, one month's Gross Family Contribution. If a Family vacates its unit, the Owner, subject to State and local laws, may utilize the deposit as reimbursement for any unpaid rent or other amount owed under the Lease. If the Family has provided a security deposit and it is insufficient for such reimbursement, the Owner may claim reimbursement from HUD, not to exceed an amount equal to the remainder of one month's Contract Rent. Any reimbursement under this section shall be applied first toward any unpaid rent. If a Family vacates the unit owing no rent or other amount under the Lease or if such amount is less than the amount of the security deposit, the Owner shall refund the full amount or the unused balance, as the case may be, to the Family.

(b) In those jurisdictions where interest is payable by the Owner on security deposits, the refunded amount shall include the amount of interest payable. All security deposit funds shall be deposited by the Owner in a segregated bank account, and the balance of this account, at all times, shall be equal to the total amount collected from tenants then in occupancy, plus any accrued interest. The Owner shall comply with all State and local laws regarding interest payments on security deposits.

(c) Families shall be expected to obtain the funds to pay security and utility deposits, if required, from their own resources and/or other private or public sources.

**§ 886.117 [Reserved]**

**§ 886.118 Amount of housing assistance payments in projects receiving other HUD assistance.**

(a) For any Section 221(d)(3) BMIR, Section 236, or Section 202 project, the Housing Assistance Payment shall be the amount by which the rent payable by the eligible Family under Section 8 is less than the subsidized rent (which subsidy shall not be reduced by reason of any Section 8 assistance).